

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

RONALD G. WEAVER,
Petitioner,

v.

**JOHN KERESTES; THE DISTRICT
ATTORNEY OF THE COUNTY OF
PHILADELPHIA; and, THE ATTORNEY
GENERAL OF THE STATE OF
PENNSYLVANIA,**
Respondents.

CIVIL ACTION

NO. 13-3947

O R D E R

AND NOW, this 11th day of December, 2013, upon consideration of Petition Under 28 U.S.C. § 2254 for Writ of *Habeas Corpus* by a Person in State Custody filed by *pro se* petitioner Ronald G. Weaver, the record in this case, the Report and Recommendation of United States Magistrate Judge Carol Sandra Moore Wells dated October 18, 2013, and Object [sic] to Magistrate Judge's Report and Recommendation Pursuant to Fed. Rule Civ. P. 72,1 [sic], the Magistrate Judge having recommended that the Petition Under 28 U.S.C. § 2254 for Writ of *Habeas Corpus* by a Person in State Custody filed by *pro se* petitioner Ronald G. Weaver be dismissed as untimely filed, and *pro se* petitioner, in his Objections, having argued that the Magistrate Judge erred in her analysis of the applicability of *Miller v. Alabama*, 132 S.Ct. 2455 (2012) to this case, **IT IS ORDERED** as follows:

1. The Report and Recommendation of United States Magistrate Judge Carol Sandra Moore Wells dated October 18, 2013, is **APPROVED AND ADOPTED**;
2. *Pro se* petitioner's Object [sic] to Magistrate Judge's Report and Recommendation Pursuant to Fed. Rule Civ. P. 72,1 [sic] are **OVERRULED** for the reasons stated in the Report and Recommendation. Specifically, *pro se* petitioner was an adult at the time of the crime at issue and

cannot claim entitlement to relief under *Miller v. Alabama* which prohibited the issuance of mandatory life-without-parole sentences for juvenile offenders;¹

3. The Petition Under 28 U.S.C. § 2254 for Writ of *Habeas Corpus* by a Person in State Custody filed by *pro se* petitioner Ronald G. Weaver, is **DISMISSED** as untimely filed for the reasons set forth in the Report and Recommendation, without an evidentiary hearing;

4. A certificate of appealability will not issue because reasonable jurists would not debate (a) this Court's decision that the petition does not state a valid claim of the denial of a constitutional right, or (b) the propriety of this Court's procedural rulings with respect to petitioner's claims. See 28 U.S.C. § 2253(c)(2); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); and,

5. The Clerk of Court shall **MARK** this case **CLOSED**.

BY THE COURT:

/s/ Hon. Jan E. DuBois

DuBOIS, JAN E., J.

¹ The Court also notes that the Supreme Court of Pennsylvania recently ruled that the United States Supreme Court decision in *Miller v. Alabama* did not apply retroactively. See *Commonwealth v. Cunningham*, 2013 WL 5814388 (Pa.).